

March 28, 2011

The Common Council met as the Water Utility Board at 7:00 p.m. on the above date in the Meeting Room at City Hall Annex with Mayor Tucker presiding and members Askren, Hoehn, Curtis, and Higgins attending. Board member Fuelling was not present. Others attending were Attorney Higgins; Supt. Gray; Chief Beloit; Chief Waters; Comm. Maynard; Jim Cameron – H J Umbaugh & Associates; Judy Dicus Thomann and Aaron Burke – Bernardin Lochmueller & Associates; John Gregg – Bingham and McHale; Tom Hogan – Johnson Controls, Inc.; Judy Whitten; Nancy Sexton; Ed Adams; Larry Williams; Ron and Vonnie Sallee; Brandon Mohr; Pam Robinson – Posey County News; and Sara Manifold – Mount Vernon Democrat.

Mayor Tucker called the meeting to order by stating members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any corrections or additions. He added if not, he entertains a motion to waive their reading and to approve the minutes as presented. Board member Curtis moved the reading of the minutes be waived and they be approved as presented. Seconded by Board member Higgins.

Mayor Tucker asked if there was any discussion ?

There as none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker requested action on the claims presented.

Board member Askren moved the claims presented be allowed for payment. Seconded by Board member Hoehn.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

*****CLAIMS*****

Mayor Tucker stated they will now hear the report of the Water Chairman.

Chairman Curtis stated a few months ago, they were informed that Supt. Gray had been nominated for an award which is awarded by the Energy Solutions Leadership Council. He added Supt. Gray did in fact receive the award, which will be awarded in June at the AWWA ACE Conference in Washington. He stated the award is a BELL Award (Building Energy and Local Leadership). He added Supt. Gray should be congratulated on his achievement.

Supt. Gray thanked the Board and added they are chugging right along on the geotextile bag project, and they will advertise for bids on the water treatment solids dewatering project this week as well. Things are moving right along.

Chairman Curtis stated they have received two letters of interest from firms concerning the RFQ for Phase 3.

Mayor Tucker asked if there questions ?

There were none.

Mayor Tucker questioned the Financial Statement.

Clerk-Treasurer Sitzman replied she has received January's but she needs to make some clarifications on her end before she disburses them. She added she has not yet seen February's Financial Statement.

Mayor Tucker asked if the Clerk-Treasurer Sitzman had any Communications for the Board?

Clerk-Treasurer Sitzman replied not at this time.

Mayor Tucker asked if there were any Legals ?
Attorney Higgins replied she has no Legals.

Mayor Tucker asked if anyone in the Audience wished to address the Board ?
There was no response.

Mayor Tucker asked if there was any Old Business ?
There was none.

Mayor Tucker asked if there was any New Business ?
There was none.

Mayor Tucker stated if there was no further business, he entertains a motion to adjourn.
Board member Askren moved the meeting be adjourned. Seconded by Board member Higgins.
Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously and adjourned the meeting.

John Tucker
Mayor

ATTEST:

Cristi L. Sitzman
Clerk-Treasurer

The Common Council met immediately following the Water Utility Board on the above date in the Meeting Room at City Hall Annex with Mayor Tucker presiding and members Askren, Hoehn, Curtis, and Higgins attending. Councilman Fuelling was not present. Others attending were Attorney Higgins; Supt. Gray; Chief Beloit; Chief Waters; Comm. Maynard; Jim Cameron – H J Umbaugh & Associates; Judy Dicus Thomann and Aaron Burke – Bernardin Lochmueller & Associates; John Gregg – Bingham and McHale; Tom Hogan – Johnson Controls, Inc.; Judy Whitten; Nancy Sexton; Ed Adams; Larry Williams; Ron and Vonnice Sallee; Brandon Mohr; Pam Robinson – Posey County News; Sara Manifold – Mount Vernon Democrat; and arriving during the meeting, Supt. Givens.

Mayor Tucker called the meeting to order by stating members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any corrections or additions. He added if not, he entertains a motion to waive their reading and to approve the minutes as presented. Councilwoman Higgins moved the reading of the minutes be waived and they be approved as presented. Seconded by Councilman Curtis.

Mayor Tucker asked if there was any discussion ?
There as none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker stated they will now hear the reports of the Standing Committees.

Street & Light Chairman Fuelling was not present.
Comm. Maynard stated he has no report.
Mayor Tucker asked if there were any questions ?
There were none.

Police & Dog Chairwoman Askren stated she has no report.
Chief Beloit stated he has no report.
Mayor Tucker asked if there were any questions ?
There were none.

Fire Chairman Hoehn stated he has no report.
Chief Waters stated he has no report.
Mayor Tucker asked if there were any questions ?
There were none.

Sewer Chairwoman Higgins stated she has no report.
Mayor Tucker asked if there were any questions ?
There were none.

Mayor Tucker asked if the Clerk-Treasurer had any Communications for the Council ?
Clerk-Treasurer Sitzman replied not at this time.

Mayor Tucker stated they are now ready for the Legal portion of the Agenda.
Attorney Higgins stated the first item is the Kimball Street Truck Ordinance, which has actually been tabled until April 11. She then stated the next item is the Public Hearing, as advertised for 7:30, on the sewer rate ordinance. As it is not yet 7:30, they will move on to another item.
Attorney Higgins then stated the first item is the 2nd reading of the Ordinance to Amend the City of Mt. Vernon Code of Ordinances, Title V – Public Works, Chapter 50 – Sewers, Section 50.135 (A) – Administrative Fees. She then stated Councilman Hoehn had emailed her last week with some concerns about this ordinance, and unfortunately she was out of the office all week last week and could not reply. She stated the ordinance is increasing the city's ability to fine violators of the pre-treatment ordinance, which mainly applies to industrial users, though the fines would apply to everyone. She suggested they table second reading and break out the fines section for residential fines versus fines for significant users. She then stated they may, at a later date, withdraw the ordinance they have before them, but she added she is not wanting to do that at this time.
Councilwoman Askren agreed.
Councilman Hoehn stated there are other things in the ordinance that Counsel may need direction on like the timeframe between fines. The first fine is \$1,000 and the second is \$7,500, but an industry could have some initial issues on start up and go three or five years with no violations and then they are hit with the second fine of \$7,500.00. He added that seems a little harsh to him. He suggested maybe a three year period.
Attorney Higgins stated Dennis Givens is the Pre-Treatment Director, they may need to check with him on some of this.
Supt. Givens arrived at the meeting.
Councilman Hoehn stated he would like to see the number of significant users that they have that would be affected by this, to give Counsel some direction.
Councilman Curtis stated he sees what Councilman Hoehn is saying.
Councilwoman Askren stated “up to at least” a \$1,000 per day. She asked how that is determined ?
Attorney Higgins replied by how serious the violations are, the minimum is \$1,000 per day.
Councilman Curtis added this fine is not a “may”, it is a “shall”.

Attorney Higgins agreed and added they need to compare the CFR40 language to the actual language in the permit. She added the city can be more restrictive but can not be less restrictive. She then stated she will also check on a three to five year timeframe.

Councilman Curtis stated the three year period is arbitrary, the city will still have options for if there is a serious violation, and there will still be a minimum fine. He added it was his understanding the "shall" had to put in.

Attorney Higgins replied the language in the permit says "shall".

Supt. Givens agreed and added this is the permit that went into effect January 1, 2011.

Attorney Higgins stated she does not believe a timeframe was addressed in the permit.

Councilman Hoehn stated separating out residential from the industrial/commercial, etc. will be difficult. He added this should be more only for the substantial industrial user, and they should not define a residential or commercial fine at this time.

Supt. Givens stated Pre-Treatment Dir. Givens is on top of this more than he is, but he can tell them that Bristol Myers is the only one being monitored for this.

Councilman Curtis stated the three years then should be fine.

Councilman Hoehn moved the second reading of the ordinance be tabled, as the ordinance needs adjusted. Seconded by Councilman Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren – yes; Fuelling – absent; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Mayor Tucker asked if anyone in the Audience wished to address the Council about anything other than the sewer rate ordinance ?

There was no response.

Mayor Tucker asked if there was any Old Business ?

Councilwoman Higgins stated at the Leadership Evansville Awards dinner, River Days was nominated, but did not win. She added the overall winner was the West Side Nut Club, but it was an honor just to be nominated. She stated Mount Vernon and River Days had good representation and it was a nice night.

Mayor Tucker asked if there was any New Business ?

There was none.

Attorney Higgins stated it is almost 7:30 and therefore, asked Jim Cameron to come forward and speak a bit on the sewer rate study.

Mr. Cameron approached and stated he is with H J Umbaugh and conducted the rate study for the sewer rate ordinance. He added since they last met, SRF has indicated that the rates for the 2nd quarter will be the same as those for the 1st quarter, 3.12%. He then stated when they figured the increase for the ordinance, they used a higher rate, which resulted in the figures the Council saw two weeks ago. SRF says they will waive the 25 basis points for this project as well, and they could see another ½% decrease. He then stated the final interest rate could be as low as 2.62%. All of this will be finalized in the next couple of weeks and the rates could end up going down by the third reading of the ordinance.

Supt. Givens asked about the proposed \$7.52 increase ?

Mr. Cameron replied they do have a final number, but it has not been finalized by SRF, but he would say it would be between \$.75 and \$.50 less than that.

Mayor Tucker stated that is good news and then asked if there were any questions ?

There were none.

Mayor Tucker stated as it is now past 7:30 he will open the Public Hearing and asked if anyone in the Audience wished to address the Council relative to the Sewer Rate Ordinance? He added this project is being mandated by IDEM and the US EPA and the city has received a \$6.5M grant.

Ms. Thomann stated that is everything that she was just going to say, but she will add that Mayor Tucker is the only Mayor that she has heard of that has received this funding not only on Phase 1, but now, 50% funding on Phase 2. She stated Mayor Tucker has worked very hard to cut the costs down on this project. The city had been under a State Judicial Order and they were being watched very closely – her hat is off to everyone for their foresight in capitalizing on these funds. She stated in the past, the most the city could have hoped to receive was \$650,000.00.

Mr. Burke then stated bids for the project were opened March 10, with the lowest bid being \$11.1M, submitted by Keiffer Brothers. He added he has given the bid a full review and it seems satisfactory, though they will be review it for even more savings. He concluded by stating he will have a formal recommendation out later this week, so they have the ball rolling on their end.

Mayor Tucker again asked if anyone in the Audience wished to address this issue ?

There was no response.

Mayor Tucker stated he will now close the Public Hearing, and the time is now 7:38 pm.

Attorney Higgins stated as the Public Hearing has now concluded, the sewer rate ordinance is up for 2nd reading. She added the figures are “not to exceed” figures.

Councilman Hoehn moved the ordinance pass 2nd reading. Seconded by Councilman Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren – yes; Fuelling – absent; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Attorney Higgins stated the next item, which goes along with the sewer rate ordinance and sewer project itself, is the Bond Ordinance, which provides the method of finance and the authorization of financing. She added it also includes “not to exceed” amounts as well as an amortization schedule up to 25 years. She then stated John Gregg is present, Bingham McHale, bond counsel for the bonds to be issued on this project. She stated they are anticipating a mid May bond closing, after which time, the notice to proceed will be issued – a very aggressive timeframe for completion of a project such as this.

Mr. Gregg approached and stated Attorney Higgins did a good job explaining the ordinance. He only added that the bonds will be able to be sold on the open market, and this ordinance will approve documents that Mayor Tucker and Clerk-Treasurer Sitzman will be authorized to sign.

Councilman Hoehn moved the Sewer Bond Ordinance pass on 2nd reading. Seconded by Councilman Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren – yes; Fuelling – absent; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Mayor Tucker stated they will now hear the reports of the Districts.

1st District Councilwoman Askren stated she has no report.

2nd District Councilman Fuelling was not present.

3rd District Councilman Hoehn stated he has no report.

4th District Councilman Curtis stated he has no report.

Councilwoman-at-Large Higgins stated she has no report.

Mayor Tucker stated Phase 2 is a big undertaking, the city has no choice as it is being mandated by US EPA and IDEM. He added they may be able to wheedle another \$300,000 off the project if they are lucky. That being said, he stated if there was no further business, he entertains a motion to adjourn. Councilwoman Higgins moved the meeting be adjourned. Seconded by Councilman Curtis. Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously and adjourned the meeting.

John Tucker
Mayor

ATTEST:

Cristi L. Sitzman
Clerk-Treasurer